



RONALD R. BALL
CITY ATTORNEY

JANE MOBALDI
ASSISTANT CITY ATTORNEY

CITY OF CARLSBAD

1200 CARLSBAD VILLAGE DRIVE
CARLSBAD, CALIFORNIA 92008-1949
(760) 434-2891
FAX: (760) 434-8367

RONALD KEMP
DEPUTY CITY ATTORNEY

PAUL G. EDMONSON
DEPUTY CITY ATTORNEY

March 20, 2008

Richard Wright, Chair
California Regional Water Quality Control Board
San Diego Region
9771 Clairemont Mesa Boulevard, Suite A
San Diego, California 92124

Re: City of Carlsbad Certification of Legal Authority to Implement and Enforce the Requirements of 40 CFR 122.26(d)(2)(i)(A-F) and San Diego Regional Water Quality Control Board Order No. R9-2007-0001

Dear Mr. Wright:

In compliance with Section C of the National Pollutant Discharge Elimination System Permit NO. CAS0108758, the City of Carlsbad does hereby certify that the City has adequate legal authority to implement and enforce the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001 (Municipal Permit). The City of Carlsbad has adopted provisions in the Carlsbad Municipal Code that contain the necessary language to implement its Jurisdictional Urban Runoff Management Program (JURMP) in accordance with the Municipal Permit.

City Departmental Activities

As is further specified in Section 2.1 of the City of Carlsbad JURMP and incorporated into this letter by reference, the following City departments conduct urban runoff related activities as noted:

1. Public Works Department
 - a. Construction Management and Inspections
 - Maintain construction site inventory.
 - Conduct inspections and regulate construction sites regarding erosion, sediment control and other site management activities, including post-construction BMPs.
 - Contribute to education and outreach for construction audience.
 - Maintain the treatment control BMP inventory.
 - Oversee maintenance tracking activities.
 - Special event inspections.



- Provide data and information for annual reporting.
- b. Engineering Services Division (Capital Projects)
- Ensure that capital improvement projects meet the new development or significant redevelopment requirements.
 - Ensure that the capital improvement projects construction activities have adequate BMPs required for implementation by the City's contractor.
 - Provide data and information for annual reports.
- c. Engineering Services Division (Land Development)
- Modifications to development requirements.
 - Ensure that new development and significant redevelopment requirements (e.g., SUSMP) are included in all development projects.
 - Maintain inventory of permits.
 - Assist in development of and implementation of Hydromodification Management Plan.
 - Provide data and information for annual reports.
 - Provide education to development community.
- d. General Services and Maintenance and Operations
- Provides general, routine maintenance, and BMP maintenance at City-owned buildings.
 - Administers street sweeping program and trash pickup contract.
 - Maintenance of City streets and roads.
 - Operate and maintain the City's storm water system and structural controls.
 - Conduct preventative maintenance.
 - Provide data and information for annual reports.
- e. Parks
- Application of pesticides, herbicides and fertilizers.
 - Maintenance of parks and park facilities.
 - Maintenance at municipal high priority facilities.
 - Provide data and information for annual reports.
- f. Storm Water Protection Program
- Conduct inspections and enforcement of industrial and commercial facilities.
 - Hotline and complaint response, enforcement and follow-up.
 - Education of residential sector, industrial and commercial facilities; personnel.
 - Provide educational materials and outreach for various target audiences.
 - Provide education for residents, general public, and school children.
 - Oversight of the Urban Runoff Management Program.

- Manage Coastal Monitoring Program, Dry Weather Monitoring Program and participate in the Regional Monitoring Program.
 - Maintain municipal inventory and manage municipal high priority facilities program.
 - Lead agency for Carlsbad WURMP Workgroup.
 - Oversight of illicit discharge detection and elimination program, including dry weather monitoring, investigation, enforcement.
 - Assist with training of municipal employees.
 - Coordinate annual report preparation.
 - Serve as liaison to City departments regarding implementation of the Order and JURMP.
 - Serve as lead for TMDL related activities.
2. Community Development Department
- a. Building Division & Code Enforcement
 - Plan review, permit issuance, building inspection and code enforcement for building permit projects.
 - Provide data and information for annual reports.
 - Provide education to development community.
 - Provide enforcement support for construction activities.
 - b. GIS
 - GIS development and implementation.
 - Database management.
 - c. Planning Division
 - General Plan update.
 - Environmental review process update and implementation.
 - Review of projects for compliance with all City development codes.
 - Conditions of approval for project permitting process.
 - Provide data and information for annual reports.
 - Provide education to development community.
3. City Attorney's Office
- Advises the City council, City manager and City departments on legal aspects of urban runoff related matters.
 - Assists in liaison with the RWQCB and staff, and in liaison with other jurisdictions.
 - Assist City departments in developing programs and ordinances.
 - Supports administrative enforcement by City departments.
 - Serves as attorney for the City in civil and criminal enforcement actions related to urban runoff matters.
 - Member of the San Diego County City Attorney Association, NPDES Subcommittee.
4. Fire Department
- Implementation of BMPs at fire stations and during non-emergency fire-fighting activities.

- Provide training to staff.
 - Provide data and information for annual reporting.
5. City Manager
 - Overall oversight for JURMP implementation.
 6. City Clerk
 - Maintains records of programs and implementation.
 - Provides public records request support when necessary.
 7. Finance Department
 - Maintains City business license database.

City Ordinances

The following urban runoff related City ordinances, contained in the Carlsbad Municipal Code, are currently in effect:

Title 1 General Provisions

- Chapter 1.08 Penalty
- Chapter 1.10 Administrative Code Enforcement

Title 6 Health and Sanitation

- Chapter 6.02 County Code – Health and Sanitation
- Chapter 6.03 Hazardous Materials
- Chapter 6.08 Solid Waste
- Chapter 6.12 Junk
- Chapter 6.16 Nuisances
 - I. Generally
 - II. Obstructing Drainage Course
 - III. Summary Abatement

Title 8 Public Peace, Morals and Safety

- Chapter 8.17 Special Events

Title 11 Public Property

- Chapter 11.16 Permits for Work or Encroachment in Public Places
- Chapter 11.24 Agua Hedionda Lagoon
- Chapter 11.32 Parks and Beaches

Title 13 Sewers

- Chapter 13.04 General Regulations
- Chapter 13.12 Septic Tanks Systems

Title 15 Grading and Drainage

- Chapter 15.04 General Regulations
- Chapter 15.08 Drainage Area Fee

- Chapter 15.12 Storm Water Management and Discharge Control
- Chapter 15.16 Grading and Erosion Control

Title 18 Building Codes and Regulations

- Chapter 18.48 Storm Water Pollution Prevention Plan

Title 20 Subdivisions

Title 21 Zoning

- Chapter 21.95 Hillside Development Regulations
- Chapter 21.110 Floodplain Management Regulations
- Chapter 21.203 Coastal Resource Protection Overlay Zone
- Chapter 21.204 Coastal Shoreline Development Overlay Zone
- Chapter 21.205 Coastal Resource Overlay Zone Mello I LCP Segment

Reasons City Ordinances are Enforceable

The above ordinances are enforceable because the City has the authority under the Constitution and statutes of the State of California to enact and enforce these ordinances, and because these ordinances were duly enacted by the City of Carlsbad City Council. These ordinances contain specific enforcement provisions and/or are enforceable under the generally applicable enforcement provisions of the City of Carlsbad Municipal Code (Chapter 1.08 – Penalty and Chapter 1.10 – Administrative Code Enforcement).

How City Ordinances are Implemented and Appealed

Some of these ordinances are implemented through permit programs and some are implemented as regulatory programs. Under each ordinance, the City council, planning commission, City departments or hearing officers are authorized and directed to take the actions contemplated by the particular ordinance, such as to consider evidence and make findings, to issue or deny permits, to impose conditions on projects, to inspect, to take enforcement action, or to perform other actions.

Chapter 15.12, Storm Water Management and Discharge Control, is the principle City ordinance addressing urban runoff. This ordinance is regulatory, and applies to all development projects and to all new and existing facilities in the City, whether or not a City permit or approval is required or issued. Chapter 15.12 contains discharge prohibitions and BMP requirements. This ordinance also authorizes the City to require the submission of storm water pollution prevention plans.

Other City ordinances require compliance with Chapter 15.12 as a condition for issuance of a City permit. City departments may also impose specific conditions of approval consistent with Chapter 15.12.

All City environmental ordinances are also implemented in part through the application of the CEQA process to proposed projects.

Proposed City ordinances are subject to a public notice and comment process prior to their enactment. Enacted City ordinances can be challenged by timely filing writs of mandate with the Superior Court. The referendum process can also be used to challenge enacted ordinances. The imposition of administrative penalties under these ordinances (where applicable) can be appealed through an internal City hearing process, administrative hearing officers and/or the courts. Superior Court decisions to impose civil or criminal penalties or to grant injunctive or other relief can also be appealed.

Administrative and Legal Procedures

The City has the legal and administrative procedures listed below in place to mandate compliance with urban runoff related ordinances:

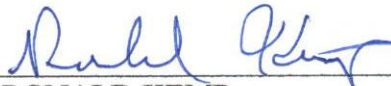
- Notice to Comply/Notice of Violation
- Administrative citations
- Stop Work Orders (for work requiring a City permit)
- Infraction citations
- Misdemeanor citations
- Permit revocation or withdrawal
- Nuisance abatement procedures, including cost recovery
- Civil penalties
- Injunctions
- Certificates of Noncompliance
- Cease and Desist Orders

The City can issue administrative orders and citations without going through the court system. The City cannot issue injunctions, but can seek injunctions in court.

The City of Carlsbad, and this office, looks forward to working with you and your Board on urban runoff related matters.

Very truly yours,

RONALD R. BALL
City Attorney

By: 
RONALD KEMP
Deputy City Attorney

kr

Enclosure

cc: Mayor and City Council
City Manager
Public Works Director
Mr. John Robertus, Executive Officer, San Diego RWQCB